

Message Text

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ACTION EB-07

INFO OCT-01 EUR-12 ISO-00 CAB-02 CIAE-00 COME-00 DODE-00

DOT-00 INR-07 NSAE-00 FAA-00 L-02 H-02 TRSE-00 OMB-01

IO-10 /044 W

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P 141236Z MAY 75

FM AMEMBASSY VIENNA

TO SECSTATE WASHDC PRIORITY 5651

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E.O. 11652: N/A

TAGS: EAIR, AU

SUBJECT: CIVAIR: PAN AM PLAN CONCERNING PAYMENT OF
COMMISSIONS TO TRAVEL AGENCY

REF: (A) VIENNA 3909; (B) VIENNA 4089; (C) STATE 109664

1. PAN AM REP LOY PHONED EMBASSY MAY 13 CONCERNING
COMMISSION PROBLEM CITED REFTELS. HE INFORMED BY PAN AM
HDQS. THAT NICE IATA AGREEMENT ON 7.5 PERCENT COMMISSION
WAS NOT UNANIMOUS AND THEREFORE NOT BINDING. LOY UNDER-
STANDS THAT AUA AND GOA HAVE ACCEPTED 7.5 PERCENT COM-
MISSION. HE SAID HE WAS UNDER INSTRUCTIONS TO IMPLEMENT
10 PERCENT COMMISSION PLAN UNLESS LOCAL COUNSEL AND US
EMBASSY ADVISE THAT GOA HAS AUTHORITY TO PREVENT IT.
LOCAL COUNSEL HAS THUS FAR TAKEN
POSITION THAT 10 PERCENT COMMISSION WOULD BE ILLEGAL
UNDER THE BILATERAL, AND HE HAS NOT YET CITED ANY LOCAL
LAW UNDER WHICH 10 PERCENT COMMISSION WOULD BE ILLEGAL.
LOCAL COUNSEL, HOWEVER, IS REVIEWING MATTER.

2. WE INFORMED LOY OF GIST OF REF (C) FOR HIS BACK-
GROUND ONLY. LOY CONTENDS THAT SINCE AUSTRIAN GOVERN-
MENT OBJECTED TO 10 PERCENT COMMISSION ON BASIS OF
BILATERAL AND DID NOT CITE ANY LOCAL LAW, THE TWO
GOVERNMENTS NOW DIRECTLY INVOLVED. IF LOCAL
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GOVERNMENT CITED LAW RATHER THAN BILATERAL AS GROUND

FOR REFUSING TO PERMIT 10 PERCENT COMMISSION, PAN AM WOULD ACCEPT IT. HE CLAIMS TO BE UNDER PAN AM DIRECTIVE "TO INSIST" THAT EMBASSY ASK DEPARTMENT FOR INSTRUCTIONS. LOY ALSO UNDER PRESSURE TO COMMUNICATE WITH LOCAL TRAVEL AGENTS BEFORE END OF WEEK.

3. REQUEST INSTRUCTIONS AS TO WHETHER EMBASSY SHOULD RAISE MATTER WITH GOA, SPECIFICALLY WITH REGARD TO US POSITION AS STATED IN PARA 3 REF (C).

4. COMMENT: WE HAVE TOLD LOY THAT WE DO NOT SEE HOW EMBASSY CAN BE EXPECTED TO COMMENT UPON LOCAL LAW IN AUSTRIA AND HE AGREES. WE HAVE ALSO SUGGESTED TO HIM THAT IT WOULD NOT BE TOO DIFFICULT FOR AUSTRIANS TO FIND LOCAL LAWS WHICH THEY CAN CITE. LOY HAS REPEATEDLY SAID HE DOES NOT WISH TO HAVE A SLUGGING MATCH WITH AUSTRIANS ON THIS ISSUE, BUT HE IS BEING PUSHED HARD BY PAN AM HDQS. WHICH IS CLEARLY TRYING TO INVOLVE USG AND EMBASSY DIRECTLY WITH GOA OVER THIS ISSUE. WE THINK PAN AM WOULD BE WELL ADVISED, UNLESS ITS LOCAL ATTORNEY CAN MAKE VERY STRONG CASE TO THE CONTRARY, NOT TO MAKE MAJOR ISSUE OUT OF THIS WITH GOA. WHILE PAN AM IS NO LONGER OPERATING SCHEDULED FLIGHTS OUT OF VIENNA, IT CONTINUES TO OPERATE CHARTER FLIGHTS WHICH MIGHT PROVE VULNERABLE IF MATTER ESCALATES. A DISPUTE WITH GOA OVER INTERPRETATION OF BILATERAL MAY PROVE TO BE STERILE AND COUNTER-PRODUCTIVE. BUCHANAN

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